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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,300	12/28/2004	Yoshiharu Osaki	L9289.04194	9177

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EXAMINER	
CHEN, JUNPENG	

ART UNIT	PAPER NUMBER
2631	

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/519,300	OSAKI ET AL.	
	Examiner	Art Unit	
	Junpeng Chen	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/28/2004*. and 08/05/2005
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement submitted on December 28, 2004 and August 05, 2005 have been considered by the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and **5-6** are rejected under 35 U.S.C. 102(a) as being anticipated by prior art admission by Applicant.

Consider **claim 1**, prior art admission by Applicant discloses a multicarrier transmission apparatus comprising: an instruction section *(read as a controlling section which comprises control section 21-1 and control section 21-2, Fig. 4 of current application, lines 1-2 of page 5 of current application)* that, when a communicating party station receives a signal from a remote station on a carrier frequency, said carrier

frequency being used for transmission to said communicating party station, issues an instruction to stop transmission by said carrier frequency and signals within a predetermined bandwidth of said carrier frequency; and a transmission section that transmits a signal using a plurality of different carrier frequencies and stops signal transmission according to the instruction from said instruction section *(read as a base station and a mobile is station perform communications, the base station stops transmitting signals for a short period of time in order to detect a position of the mobile station. Then, while the base station stops transmitting signals, the mobile station receives a signal (pilot channel) transmitted from a nearby base station and measures the distance between the mobile station and this base station from the level of the received signal, lines 14-21 of page 1 of current application).*

Consider **claim 5, as applied to claim 1 above**, prior admission by Applicant discloses that the multicarrier transmission apparatus above is for a base station apparatus, lines 14-21 of page 1 of current application.

Consider **claim 6, as applied to claim 1 above**, prior admission by Applicant discloses a mobile communication system (CDMA communication, line 14 of page 1 of current application) comprising:

a base station apparatus having the multicarrier transmission apparatus of claim 1 *(read as the multicarrier transmission apparatus above is for a base station apparatus, lines 14-21 of page 1 of current application)*

and a mobile station apparatus that, when a carrier corresponding to a communicating base station apparatus is not in operation, receives a carrier

corresponding to a different base station apparatus from said communicating base station apparatus *(read as the base station stops transmitting signals for a short period of time in order to detect a position of the mobile station. Then, while the base station stops transmitting signals, the mobile station receives a signal (pilot channel) transmitted from a nearby base station and measures the distance between the mobile station and this base station from the level of the received signal, lines 14-21 of page 1 of current application).*

Claim 7 is rejected under 35 U.S.C. 102(a) as being anticipated by prior art admission by Applicant.

Consider **claim 7**, prior art admission by Applicant discloses a multicarrier transmission method comprising the steps of:

when a communicating party station receives a signal from a remote station on a carrier frequency, said carrier frequency being used for transmission to said communicating party station, issuing an instruction to stop transmission by said carrier frequency and signals within a predetermined bandwidth of said carrier frequency; and transmitting a signal using a plurality of different carrier frequencies and stopping signal transmission according to the instruction *(read as the base station stops transmitting signals for a short period of time in order to detect a position of the mobile station. Then, while the base station stops transmitting signals, the mobile station receives a signal (pilot channel) transmitted from a nearby base station and measures the distance between the mobile station and this base station from the level of the received signal, lines 14-21 of page 1 of current application).*

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over **prior art admission by Applicant** in view of the **Kong et al. (U.S. Patent 6,473,619 B1).**

Consider **claim 2, as applied to claim 1 above**, prior admission by Applicant discloses the multicarrier transmission apparatus, wherein said instruction section includes:

a first control section that controls signal transmission corresponding to the carrier frequency for communication with the communicating party station *(read as the control section 21-1 controls signal transmission corresponding to the carrier frequency for communication with the mobile station, Fig. 4, line 17 of pages 4 to line 2 of page 5);*

a second control section that controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency *(read as the control section 21-2 controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency, Fig. 4, line 17 of pages 4 to line 2 of page 5);*

and the first control section and the second control section were instructed to stop transmission *(read as both the base station stops transmitting signals, lines 14-21 of page 1 of current application).*

However, prior art admission by Applicant fails to disclose that the instruction was from a third control section and was to stop signal transmission at a same timing controlled by the first control section and a signal transmission timing controlled by the second control section.

In related art, Kong et al. discloses a forward transmission power (FTP) control method which comprises a controller 411 for controlling all channels (lines 1-4 of column 8) which may exist in a base station supporting a multicarrier forward channel

structure (lines 10-16 of column 10). This FTP controls are preformed at the same time or at different times being increased by at least one frame (lines 23-24 of column 5).

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings by Kong et al. into the teachings by prior admission by Applicant to design a controlling section to have a similar controller as controller 411 by Kong et al. so that the control signals by first and second control section can be synchronized, thus making the base station for transmitting signals synchronized at a predetermined time (abstract by Kong et al.). With this controller (read as the third control section as claimed), it would be easy to issue an instruction to stop the signal transmission at the same timing.

Consider **claim 3, as applied to claim 1 above**, prior admission by Applicant discloses the multicarrier transmission apparatus, wherein said instruction section includes:

a first control section that controls signal transmission corresponding to the carrier frequency for communication with the communicating party station *(read as the control section 21-1 controls signal transmission corresponding to the carrier frequency for communication with the mobile station, Fig. 4, line 17 of pages 4 to line 2 of page 5);*

a second control section that controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency *(read as the control section 21-2 controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency, Fig. 4, line 17 of pages 4 to line 2 of page 5);*

and the first control section and the second control section were instructed to stop transmission, and, first control section and second control were instructed to restart the transmission *(read as the base station stops transmitting signals for a short period of time, lines 14-21 of page 1 of current application).*

However, prior art admission by Applicant fails to disclose that the instruction was from a third control section and instructs the first control section stop transmission and thereafter instructs said second control section to stop transmission, and, after a predetermined period of time passes, instructs said first control section to restart the transmission and thereafter instructs said second control section to restart the transmission.

In related art, Kong et al. discloses a forward transmission power (FTP) control method which comprises a controller 411 for controlling all channels (lines 1-4 of column 8) which may exist in a base station supporting a multicarrier forward channel structure (lines 10-16 of column 10). This FTP controls are preformed at the same time or at different times being increased by at least one frame (lines 23-24 of column 5).

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings by Kong et al. into the teachings by prior admission by Applicant to design a controlling section to have a similar controller as controller 411 by Kong et al. so that the control signals by first and second control section can be synchronized, thus making the base station for transmitting signals synchronized at a predetermined time (abstract by Kong et al.). With this controller (read as the third control section as claimed), it would be easy to

issue an instruction to instructs the first control section stop transmission and thereafter instructs said second control section to stop transmission, and, after a predetermined period of time passes, instructs said first control section to restart the transmission and thereafter instructs said second control section to restart the transmission.

Consider **claim 4, as applied to claim 1 above**, prior admission by Applicant discloses the multicarrier transmission apparatus, wherein said instruction section includes:

a first control section that controls signal transmission corresponding to the carrier frequency for communication with the communicating party station *(read as the control section 21-1 controls signal transmission corresponding to the carrier frequency for communication with the mobile station, Fig. 4, line 17 of pages 4 to line 2 of page 5);*

a second control section that controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency *(read as the control section 21-2 controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency, Fig. 4, line 17 of pages 4 to line 2 of page 5);*

and the first control section and the second control section were instructed to stop transmission, and, first control section and second control were instructed to restart the transmission *(read as the base station stops transmitting signals for a short period of time, lines 14-21 of page 1 of current application).*

However, prior art admission by Applicant fails to disclose that the instruction was from a third control section and instructs said first control section to stop

transmission and thereafter instructs said second control section to stop transmission, and, after a predetermined period of time passes, instructs said second control section to restart the transmission and thereafter instructs said first control section to restart the transmission.

In related art, Kong et al. discloses a forward transmission power (FTP) control method which comprises a controller 411 for controlling all channels (lines 1-4 of column 8) which may exist in a base station supporting a multicarrier forward channel structure (lines 10-16 of column 10). This FTP controls are preformed at the same time or at different times being increased by at least one frame (lines 23-24 of column 5).

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings by Kong et al. into the teachings by prior admission by Applicant to design a controlling section to have a similar controller as controller 411 by Kong et al. so that the control signals by first and second control section can be synchronized, thus making the base station for transmitting signals synchronized at a predetermined time (abstract by Kong et al.). With this controller (read as the third control section as claimed), it would be easy to issue an instruction to instructs said first control section to stop transmission and thereafter instructs said second control section to stop transmission, and, after a predetermined period of time passes, instructs said second control section to restart the transmission and thereafter instructs said first control section to restart the transmission.

Conclusion

7. Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to**:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Junpeng Chen whose telephone number is (571) 270-1112. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Junpeng Chen
J.C./jc

August 28, 2006

RAFAEL PEREZ-GUTIERREZ
SUPERVISORY PATENT EXAMINER
8/29/06